ROGER ROTH

STATE REPRESENTATIVE • 56TH ASSEMBLY DISTRICT

Testimony of Representative Roger Roth Before the Assembly Committee on Jobs, the Economy and Small Business

AB 184 – Increasing the Section 179 Deduction

May 12, 2009

Thank you, Chairman Molepske, members, and guests. I appreciate the opportunity to testify on AB 184.

This legislation will increase the amount a business can expense in the year a piece of equipment was purchased, rather than depreciating over a longer period of time. The change would apply to tax returns businesses submit to the state, and would increase the expensing amount from the current $25,000 to $50,000.

Since 2003, the federal government has steadily increased this expensing amount. It is known as a Section 179 expense deduction, after the place it is located in the IRS code.

Equipment that qualifies for this deduction includes tangible personal property and other tangible property used for manufacturing, production, or extraction. Other equipment used for transportation, communications, gas, water, or sewage disposal would also qualify. In short, most equipment that is not considered a building is eligible for expensing

Under President Bush, the expensing amount was increased in 2008 to $250,000 for federal taxpayers. President Obama has maintained the expense deduction at $250,000 for 2009 as part of the American Recovery and Reinvestment Act. The expensing amount is scheduled to drop to $133,000 in 2010 for federal taxpayers.

STATE CAPITOL: P.O. BOX 8953 • MADISON, WISCONSIN 53708
(608) 266-7500 • FAX: (608) 282-3656 • REP.ROTH@LEGIS.WI.GOV

The Section 179 deduction also has an investment limit above which the expense deduction is reduced on a dollar-for-dollar basis. In 2003, that limit was $200,000. For 2008 and 2009, the federal government has increased the investment limit to $800,000.

Except for farmers, Wisconsin has not modified its Section 179 provisions since increases to the allowance were first made in 2003. Consequently, the amount of our state expensing deduction has remained at $25,000 and the investment limit stayed at $200,000 for state taxpayers.

AB 184 would boost the expense deduction to $50,000, but makes no adjustment to the state investment limit of $200,000. I would be open to adjusting that number upwards if there is a clearly demonstrated need.

This bill targets small businesses that are looking to purchase new equipment. Besides helping the manufacturers of that equipment, AB 184 also places more money in the hands of businesses looking to expand. These are the businesses that add jobs to our economy.

AB 184 is written to allow 2008 tax filers to submit amendments to their tax returns for that year and see immediate benefit. The Department of Revenue has estimated that the bill will reduce revenues by $7 million in the first year. However, the department has estimated the reduced revenue to be $1.8 million in the second year and only $700,000 in 2011-12.

As I stated before, this pro-growth measure puts money in the hands of those looking to create jobs in Wisconsin. I hope you will consider passage of this much-needed legislation.

I thank you for your consideration of AB 184. I will be happy to answer any questions you may have at this time.

John Wieland
1609 W 6th Ave
Oshkosh, WI 54902

May 11, 2009

Representative Roger Roth
Room 316 North
State Capitol
P.O. Box 8953
Madison, WI 53708

Dear Rep. Roth:

I am writing this letter in support of Assembly Bill 184. This legislation takes a step toward parity between Federal and Wisconsin tax codes. By allowing small businesses to expense more equipment purchases, there will be less need to maintain a third set of depreciation schedules for Wisconsin purposes due to the fact that the state of Wisconsin tax code doesn't allow as much Section 179 expensing as the federal tax code allows. This will save many small businesses money by not having to maintain the additional schedules on their own or to pay their tax preparer to maintain the third schedule.

Also, the legislation gives a tax incentive for many small businesses to purchase new equipment <u>now</u>. This could help get the Wisconsin economy moving toward recovery. Equipment purchased might be "green" and would save the business energy costs or might make the business more efficient and better able to compete in this challenging economy.

A large amount of the savings would flow to the individual taxpayer's return since many small business owners pay tax on their business's income from pass-through entities such as limited liability corporations and S-corporations. Other taxpayers report their business income directly on their personal tax return using Schedule C as a sole proprietor. The idea of tax savings to these small business owners and other taxpayers would likely be viewed as a positive change for the economy and would help to spur some growth.

The legislation might decrease revenues to the state treasury in the short-term but because the vast majority of the items purchased and expensed under this provision would be depreciated by the business in 5 to 7 years, the state would recover the shortfall within the 5 to 7 years most of the items would normally be depreciated.

In summary, I believe Assembly Bill 184, would be a net positive to increase economic activity and encourage the committee to pass the bill.

Sincerely,

John Wieland

John Wieland

State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK RD. • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • http://www.revenue.wi.gov

Jim Doyle
Governor

Roger M. Ervin
Secretary of Revenue

Assembly Committee on Jobs, the Economy and Small Business Hearing, May 12, 2009

AB 184 – Increase Section 179 Expensing (Rep. Roth)

Description of Current Law and Proposed Change

Under current federal law, the maximum amount that a business may claim under Section 179 of the Internal Revenue Code as an expense deduction for acquiring qualified assets is $250,000. The deduction is phased out on a dollar-for-dollar basis if the cost of qualified property acquired in the year exceeds $800,000.

Under current Wisconsin law, the allowable amount of Section 179 expense depends on whether the property is used in farming by a person actively engaged in farming.

- For persons not engaged in farming, the maximum Section 179 expense is $25,000, and the deduction is phased out for qualified property over $200,000.
- For persons actively engaged in farming, the maximum Section 179 deduction is $115,000, and the deduction is phased out for qualified property over $460,000 (2008 limit). Beginning in 2010, the maximum deduction for persons actively engaged in farming drops to $25,000 with a phase-out for qualified property over $200,000.

This bill increases the Wisconsin expense deduction limit to $50,000 for property that is not used in farming and that is acquired and placed in service in taxable years beginning on or after January 1, 2008. The bill would also increase the deduction limit to $50,000 for persons engaged in farming for property placed in service beginning in 2010.

In general, the cost of acquiring certain depreciable property may be claimed by a business as an expense in the year it is acquired as allowed under Wisconsin law. If the amount spent to acquire the assets exceeds the expense limit , the business can claim an equal portion of the excess expense as depreciation over a specified period of years, depending on the type of asset acquired. The total amount that is deducted from income by the business for the cost of acquiring the asset is the same in either case, except that expensing may allow the deduction to be taken sooner.

The Department of Revenue has submitted the following technical comments

Phase-out. Federal and state law provide for a phase-out for Section 179 expensing. The Section 179 expense amount is reduced by the amount by which the cost of Section 179 property placed in service during the taxable year exceeds a certain amount. Under current Wisconsin law, the phase-out for assets not used in farming starts at $200,000. For assets used in farming, the phase-out begins at $500,000. The bill increases the maximum Section 179 deduction limit but does not contain any language regarding a phase-out. The author may wish to include such language to maintain consistency with existing law.

Language Clarity. The bill as written is not clear when it refers to Section 179 as the authority for expensing property but does not limit the application of the $50,000 threshold to "Section 179 property." To avoid unnecessary confusion, the second sentence in sections 71.07(7r)(d), 71.22(5m)(c), and 71.34(1m)(c) could be amended to read, "This paragraph applies to section 179 property that is acquired and placed in service in taxable years beginning on or after . . . ."

Effective Date. The bill provides that the increased expense amount applies to property that is acquired and placed in service in taxable years beginning on or after January 1, 2008. The majority of tax year 2008 tax returns will be filed by the time this bill is enacted. This could result in a large number of businesses having to file amended 2008 returns in order to take advantage of the increased expensing. It would be preferable if this provision would first apply to taxable years beginning on or after January 1, 2009.

Contact: Sherrie Gates-Hendrix, (608) 267-1262

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